

Appl. No. 10/720,919

Amdt. dated February 22, 2008

Reply to Office action of January 23, 2008

REMARKS/ARGUMENTS

Claims 1, 4 to 12, 14 to 17 and 21 to 26 are in the application. Claims 2, 3, 13 and 18 are cancelled. Claims 19 and 20 are withdrawn from consideration.

Claims 21 to 26 are newly added as a compilation of Claims as originally presented in this application and will be considered as objected to or rejected on the same basis as the claims on which they are based based.

Claims 1, 4 to 12, 14 to 17 and 21 to 26 stand rejected under 35 U.S.C. 103 (a) as being obvious and unpatentable in view of Midwest in view of United States Patent 1,939,015 to McLellan (hereinafter "McLellan") and United States Patent 762,014 to Wittbold (hereinafter "Wittbold"). Claims 1, 4 to 11, and 14 to 17 have objections thereto.

Appropriate amendments have been made to overcome the objections. The rejection under 35 U.S.C. 103 is respectfully traversed.

RESPONSE TO OBJECTIONS

Claims 1, 4 to 11, and 14 to 17 objections thereto. Newly added Claims 21 to 26 are assumed for the sake of argument, to have similar objections thereto and are discussed in that fashion. The Examiner's helpful suggestions have been followed in an attempt to bring the claims into compliance with the Examiner's requirements. The antecedent structure requirements are believed to have been met. Accordingly withdrawal of these objections is respectfully requested.

RESPONSE TO 35 U.S.C. 103 REJECTIONS

Claims 1, 4 to 12, 14 to 17 and 21 to 26 stand rejected under 35 U.S.C. 103 (a) as being obvious and unpatentable in view of Midwest in view of McLellan and Wittbold. Not only are these references improperly combined, even if they are assumed combinable for the sake of argument, applicant's invention still is not taught.

Applicant's invention relates to a nursery irrigation system of feeding water to each root ball of a series of

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plants situated in a plant tray from an overhead piping system, and removing the water from the tray when the plants have received enough water. Removal of water from or adding water to plants at the ball thereof through the same overhead pipe is nowhere suggested by the applied references.

The overhead piping system with the remote water supply is furthermore easily assembled and disassembled. This feature permits the building housing the plant trays, to be used in a wide variety of manners. As the water is drained from the trays, it goes back to the holding tank, thereby reducing waste, and more efficiently using the water. No cited reference or reasonable combination thereof suggests this great advantage of

First, when assembled and used the nursery irrigation system waters the root ball without contacting the leaves of a plant. This prevents or minimizes water contact with the leaves of the plant and consequently improves the health of the plants (Page 1, Line 10 and Page 4, Line 1 of the specification).

Midwest teaches watering of plants. Midwest was alleged to show a single pipe service for the irrigation table, but it clearly discusses both a drain line and a feed line. The drain line can allow the water to be lost into the ground. McLellan and Wittbolt both teach spraying of plants and require contact of the spray with the leaves of the plants. Midwest does not teach spraying of plants. So using neither Wittbolt nor McLellan to teach directly watering the root ball of a plant without water contact on plant leaves, when the sole teaching thereof is spraying. So there is no teaching to combine the references.

Furthermore the spraying of McLellan and Wittbolt is inherently wasteful of water. This combined with the draining of Midwest is clearly a waste of water. Such waste is not permitted or tolerated by the claimed invention.

Even if the references are assumed combinable for the sake of argument, applicant's application of the water directly to the root ball, and recycling of the water after the root balls are sufficiently wetted, together with the clear advantages thereof, are not suggested by any reasonable combination of the cited references.

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Applicant's advantages are clearly disclosed, plainly discussed and heavily emphasized in applicant's claims and specification. These factors bring this application into the realm of U. S. v. Adams, 383 U.S. 39, 48-49; 148 USPQ 479, 482 (1966), which includes the following interpretation of the patent law:

"Novelty and nonobviousness, as well as utility, are separate tests of patentability. All must be satisfied in a valid patent.

"While patent claims limit invention, and specification cannot be utilized to expand patent monopoly, claims are construed in light of specification and both are read with a view to ascertaining the invention."

Accordingly, this rejection is respectively traversed and withdrawal thereof is requested.

CONCLUSION

Accordingly, all rejections having been overcome by amendment or traversed by remarks, reconsideration and allowance of the instant application is respectfully requested. Applicant's attorney remains amenable to assisting the Examiner in the allowance of this application.

Applicant respectfully requests that a timely notice of allowance be issued in this case.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited by facsimile to (571)273-8300 addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on February 22, 2008.

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